

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA

v.

HEATH ALLEN-JOE AUBREY (1)  
TERESA NICOLE MARTINEZ (2)  
PEGGY ANN MIJARES (3)  
MARCUS DALE SMALLWOOD (4)

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§

**SEALED**

NO. 4:17CR

Judge

123  
*Mazzan+*

FILED  
JUL 12 2017  
Clerk, U.S. District Court  
Texas Eastern

**INDICTMENT**

THE UNITED STATES GRAND JURY CHARGES:

**Count One**

Violation: 21 U.S.C. § 846  
(Conspiracy to Distribute and  
Possess with Intent to Distribute  
Methamphetamine)

From in or about January 2015, the exact date unknown to the grand jury, and continuing up to and including the date of the filing of this indictment, in the Eastern District of Texas and elsewhere, **Heath Allen-Joe Aubrey, Teresa Nicole Martinez, Peggy Ann Mijares, and Marcus Dale Smallwood**; defendants, did knowingly and intentionally conspire and agree with each other and with other persons known and unknown to the grand jury to distribute and possess with intent to distribute 50 grams or more of a mixture of substance containing a detectable amount of methamphetamine, a violation of 21 U.S.C. § 841(a)(1).

In violation of 21 U.S.C. § 846.

**Count Two**

**Violation:** 18 U.S.C. § 922(g)(1)  
(Possession of Firearm by a Felon)

On or about April 7, 2017, in Lamar County, Texas, in the Eastern District of Texas, **Heath Allen-Joe Aubrey**, defendant, having been convicted of a crime punishable by imprisonment for a term exceeding one year, did knowingly possess in and affecting interstate commerce the following ammunition: 27 rounds of Federal .45 auto ammunition and 21 rounds of Perfecta 9mm ammunition, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

**NOTICE OF INTENT TO SEEK CRIMINAL FORFEITURE**

As a result of the commission of the foregoing offense, the defendants shall forfeit to the United States pursuant to 21 U.S.C. § 853 any and all property used to facilitate the foregoing offense or constituting or derived from proceeds the defendants obtained directly or indirectly as a result of the foregoing offense.

**Substitute assets**

If any property subject to forfeiture as a result of any act or omission by the defendants (i) cannot be located upon the exercise of due diligence, (ii) has been transferred or sold to, or deposited with a third party, (iii) has been placed beyond the jurisdiction of the court, (iv) has been substantially diminished in value, or (v) has been commingled with other property which cannot be subdivided without difficulty, the defendants shall forfeit to the United States any other property of the defendants up to the value of the forfeitable property.

Additionally, the defendants shall forfeit to the United States pursuant to 18 U.S.C. §§ 924(d) and 28 U.S.C. § 2461(c), all firearms and ammunitions involved in the offense, including but not limited to the following:

1. 27 rounds of Federal .45 auto ammunition
2. 21 rounds of Perfecta 9mm ammunition

Moreover, if any property subject to forfeiture, as a result of any act or omission by the defendants (i) cannot be located upon the exercise of due diligence, (ii) has been transferred or sold to, or deposited with a third party, (iii) has been placed beyond the jurisdiction of the court, (iv) has been substantially diminished in value, or (v) has been commingled with other property which cannot be subdivided without difficulty, the defendant shall forfeit to the United States any other property of the defendants up to the value of the forfeitable property.

A TRUE BILL



GRAND JURY FOREPERSON

BRIT FEATHERSTON  
ACTING UNITED STATES ATTORNEY



for Maureen C. Smith  
Assistant United States Attorney

7/12/17  
Date

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MARCUS DALE SMALLWOOD (4)	§	

**NOTICE OF PENALTY**

**Count One**

Violation: 21 U.S.C. § 846

Penalty: If 500 grams or more of a mixture or substance containing a detectable amount of methamphetamine not less than 10 years and not more than life imprisonment, a fine not to exceed \$10 million, or both; supervised release of at least 5 years;

If less than 500 grams but 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine – not less than 5 years and not more than 40 years imprisonment, a fine not to exceed \$5 million, or both; supervised release of at least 4 years.

If less than 50 grams or more of a mixture or substance containing a detectable amount of methamphetamine -- not more than 20 years imprisonment, a fine not to exceed \$2 million, or both; supervised release of at least 3 years.

Special Assessment: \$100.00

**Count Two**

Violation: 18 U.S.C. § 922(g)(1)

Penalty: Imprisonment for a term of not more than 10 years, a fine not to exceed \$10,000; supervised release of not more than 3 years.

Special Assessment: \$100.00